Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Rainbow Landscape Materials, 3916 East Highway 67, Rainbow, Somervell County

Type of Operation: Construction site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this

matter but does not wish to speak at Agenda.

Texas Register Publication Date: August 23, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,435

Amount Deferred for Expedited Settlement: \$1,887 Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,258 **Total Due to General Revenue:** \$6,290

Payment Plan: 5 payments of \$1,258 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): January 14, 2013

Complaint Information: Complainant alleged that sediment was leaving the site

Date(s) of Investigation: January 24, 2013

Date(s) of NOE(s): March 08, 2013

Violation Information

- 1. Failed to post the construction site notice at the Site in a location where it is safely and readily available for viewing by the general public, local, state, and federal authorities, prior to commencing construction, and to maintain the notice at that location until completion of the construction activity [Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150000, Part II, Section E.2.(b), Obtaining Authorization to Discharge, and 30 Tex. ADMIN. CODE §281.25(a)(4)].
- 2. Failed to make the stormwater pollution prevention plan ("SWP3") readily available at the time of an on-site inspection [TPDES General Permit No. TXR150000, Part III, Section D.1., Plan Review and Making Plans Available, and 30 Tex. Admin. Code §281.25(a)(4)].
- 3. Failed to include a description of the intended schedule or sequence of activities that will disturb soils for major portions of the Site in the SWP3 [TPDES General Permit No. TXR150000, Part III, Section F.1.(c), Contents of SWP3, and 30 Tex. ADMIN. CODE §281.25(a)(4)].
- 4. Failed to include data describing the soil or the quality of any discharge from the Site in the SWP3 [TPDES General Permit No. TXR150000, Part III, Section F.1.(e), Contents of SWP3, and 30 Tex. ADMIN. CODE §281.25(a)(4)].
- 5. Failed to include a map showing the general location of the Site in the SWP3 [TPDES General Permit No. TXR150000, Part III, Section F.1.(f), Contents of SWP3, and 30 TEX. ADMIN. CODE §281.25(a)(4)].
- 6. Failed to include a detailed site map in the SWP3 [TPDES General Permit No. TXR150000, Part III, Section F.1.(g), Contents of SWP3, and 30 TEX. ADMIN. CODE §281.25(a)(4)].
- 7. Failed to properly maintain control measures. Specifically, the silt fence located on the south side of the property had fallen down and large patches of vegetation had not

been established on the slope [TPDES General Permit No. TXR150000, Part III, Section F.2.(a)(ii), General Requirements, and 30 Tex. ADMIN. CODE §281.25(a)(4)].

- 8. Failed to inspect disturbed areas of the construction Site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, discharge locations, and structural controls for evidence of, or the potential for, pollutants entering the drainage system. Specifically, a review of the bi-weekly site inspection reports revealed that the site inspections were not conducted for solid waste, hazardous waste, sanitary/septic, offsite storage erosion controls, hazardous materials storage, and curb inlet protection for the period of June 1, 2011 through January 24, 2013 [TPDES General Permit No. TXR150000, Part III, Section F.7.(a), Inspection of Controls, and 30 Tex. ADMIN. CODE §281.25(a)(4)].
- 9. Failed to prevent the discharge of sediment into or adjacent to water in the state. Specifically, the disturbed area had not been properly stabilized and sufficient erosion controls were not utilized, resulting in sediment leaving the Site and impacting nearby property. [Tex. Water Code § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. By February 11, 2013, began making the SWP3 readily available at the Site;
- b. By February 22, 2013:
- i. Posted a construction site notice at the Site in a location where it is safely and readily available for viewing; and
- ii.Included a detailed site map in the SWP3.

Technical Requirements:

The Order will require Respondent to:

- a. Within 15 days:
- i. Include a description of the intended schedule or sequence of activities that will disturb soils for major portions of the Site in the SWP3;
- ii. Include data describing the soil or the quality of any discharge from the Site in the SWP3; and

- iii. Include a map showing the general location of the Site in the SWP3.
- b. Within 30 days, begin inspecting disturbed areas of the Site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, discharge locations, and structural controls for evidence of, or the potential for, pollutants entering the drainage system;
- c. Within 45 days, repair the silt fence and establish vegetation on the slope;
- d. Within 60 days, develop and implement procedures to eliminate the reoccurrence of discharges from the Site by stabilizing the disturbed area and utilizing erosion control measures; and
- e. Within 75 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos.2.a. through d.

Litigation Information

Date Petition(s) Filed: N/A Date Answer(s) Filed: N/A SOAH Referral Date: N/A Hearing Date(s): N/A Settlement Date: N/A

Contact Information

TCEO Attorney: N/A

TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division,

Enforcement Team 3, MC R-04, (817) 588-5890; Candy Garrett, Enforcement Division,

MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Oscar Rohne, Owner, Rainbow Landscape Materials, LLC, 9925

Tantarra Drive, Burleson, Texas 76028

Respondent's Attorney: N/A

	Pen	alty	Calculation	n Works	heet (PC	CW)	
Policy Revision 3 (S	September 2011)					PCW Revision	on August 3, 2011
DATES Assigned	11-Mar-2013						
PCW		Screeni	ng 13-Mar-2013	EPA Due			vannemen o van oerskoek hit skoede e kkr
RESPONDENT/FACIL	ITY INFORMATIO	N					
	Rainbow Landscar	oe Materi	als, LLC				
Reg. Ent. Ref. No. Facility/Site Region				Major/	Minor Source	Minor	
- Facility/Site Region	14-Dallas/Torc Wor	CII				1111100	A See See See See See See See See See Se
CASE INFORMATION							
Enf./Case ID No.				No.	of Violations Order Type		
Docket No. Media Program(s)	Water Quality		·	Governme	order Type nt/Non-Profit		
Multi-Media						Jorge Ibarra, P.E.	
					EC's Team	Enforcement Tean	n 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$25,000		age and a decimal analysis areas areas areas areas areas (1) biblions are the extra at the	
		Dona	utv. Calcula	tion Cocti	on ·		
			alty Calcula		OH		
TOTAL BASE PEN	ALTY (Sum of)	violatio	n base penal	ties)		Subtotal 1	\$9,375
ADJUSTMENTS (+	/-) TO SURTO	ΤΔΙ 1					
Subtotals 2-7 are o	btained by multiplying t	he Total Ba	se Penalty (Subtotal 1	L) by the indicated		epost mediterent or epotential rooms.	
Compliance H	istory		5.0%	Enhancement	Subto	tals 2, 3, & 7	\$468
Notes	Enhancer	ment for	one NOV with san	ne/similar viola	itions.		
			·····		<u> </u>	1	
Culpability	No	<u> </u>	0.0%	Enhancement		Subtotal 4	\$0
Notes	The Pec	nondent (does not meet the	culnability cri	teria		
Notes	The Res	pondene	does not meet the	carpability on			
			Alexander Services	A LINE OF ALL OF AS			#624
Good Faith Eff	ort to Comply To	tal Adju	stments			Subtotal 5	\$624
Economic Ben				Enhancement*	t Amount	Subtotal 6	\$0
Approx	Total EB Amounts . Cost of Compliance	\$335 \$4,600		eu at trie Total Eb ş	AIIIOUIIL		
			e of 11 color with Successive Section 1.			23 (4) (8) (8) (12) (6) (6) (6) (7)	10.010
SUM OF SUBTOTA	LS 1-7				F	inal Subtotal	\$9,219
OTHER EASTORS	AC JUSTICE M	NV DEA	UTDE	2.3%	la. ver trae	Adjustment	\$216
OTHER FACTORS A Reduces or enhances the Fina				2.3%	Maryan alicentula	Aujustinein	7210
					a		
Notes	Recommended en	hanceme			ssociated with		
: :			Violation No. 5.				
	L			······································	Final Per	nalty Amount	\$9,435
enger of the section of the		<u></u>			kalada fayaygaadda 416-414/5/4444 h	501.566.03600000000000000000000000000000000	40.25-
STATUTORY LIMI	T ADJUSTMEN'				Final Asse	ssed Penalty	\$9,435
DEFENDAL				20.0%	Reduction	Adjustment	-\$1,887
DEFERRAL Reduces the Final Assessed Po	enalty by the indicted pe	ercentage.	(Enter number only: e				71,007
Notes	De De	eferral of	fered for expedite	d settlement.		1	

PAYABLE PENALTY

\$7,548

Screening Date 13-Mar-2013

Docket No. 2013-0511-WQ-E

Policy Revision 3 (September 2011) PCW Revision August 3, 2011

Respondent Rainbow Landscape Materials, LLC

Case ID No. 46436

Reg. Ent. Reference No. RN105695563 Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

Component	ory Site Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
·	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
AdditS	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
	Pie	ease Enter Yes or No	I
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
00	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
eat Violator (Adjustment Per	centage (Sub	total 2
No		centage (Sub	total 3
	ory Person Classification (Subtotal 7)		
Satisfactory I	Performer Adjustment Per	centage (Sub	total 7)
pliance Histo	ory Summary		
Compliance History Notes	Enhancement for one NOV with same/similar violations.		
	Total Compliance History Adjustment Percentage (Subtotals 2,	3, & 7
	listory Adjustment and a glassical collection of the graph and the collection of the		

	F	Case ID No.	Rainbow Landso 46436	,	PCW ion 3 (September 2011) Revision August 3, 2011
Reg.	Medi Enf. C	ference No. a [Statute] Coordinator ation Number	Water Quality Jorge Ibarra, P.	Е.	:
		Rule Cite(s)		tant Discharge Elimination System ("TPDES") General Permit No. art II, Section E.2.(b), Obtaining Authorization to Discharge, and 30 Tex. Admin. Code § 281.25(a)(4)	
	Violatio	n Description	and readily a authorities, pr	he construction site notice at the Site in a location where it is safely vailable for viewing by the general public, local, state, and federal ior to commencing construction, and to maintain the notice at that location until completion of the construction activity.	
		nan saza. Sazoninga a sistema	elicuu, merus o columbatus i galeiu. And	Base Penalty	\$25,000
>> Env	ironmei	Release Actual	Major	an Health Matrix Harm Moderate Minor	
>>Prog	ramma	Potential tic Matrix	onsinteesineesineesinee	Percent 0.0%	
		Falsification	Major X	Moderate Minor Percent 5.0%	1
	Matrix Notes		100	0% of the rule requirement was not met.	
		er i i i i i i i i i i i i i i i i i i i	en man en	Adjustment \$23,750	\$1,250
Violatio	n Event	S			
		Number of \	/iolation Events	1 Number of violation days	
		mark only one	dally weekly monthly		41.250
		with an x	quarterly semiannual [annual single event [Violation Base Penalty	\$1,250
				One single event is recommended.	
Good Fa	aith Effc	orts to Comp	o ly Extraordinary	25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer	\$312
			Ordinary N/A	X (mark with x)	
			Notes	The Respondent achieved compliance by February 22, 2013 for this violation.	
		e <u>rra</u> nski sa		Violation Subtotal	\$938
Econom	iic Bene		this violatio	n Statutory Limit Test \$1 Violation Final Penalty Total	\$1,024
				This violation Final Assessed Penalty (adjusted for limits)	\$1,024

	E	conomic	Benefit	Wo	rksheet		
Respondent	Rainbow Land	scape Materials, L	LC				
Case ID No.	46436						
Rea. Ent. Reference No.	RN105695563	}					
Media	Water Quality						Years of
Violation No.	- ,					Percent Interest	Depreciation
VIOIALIDII NO.	*					5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description							
rtein Description	NO COMMISSION \$				991-47601 - 041-0849J4166-0084069		
Delayed Costs			in the table beginner				
Equipment		T		0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land		1		0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	24-Jan-2013	22-Feb-2013	0.08	\$1	n/a	\$1
Notes for DELAYED costs		,	and the final o	date is t	he compliance dat	ari .	
Avoided Costs	ANNUAL	IZE [1] avoided	costs before			for one-time avoid	
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0 \$0
Supplies/equipment				0.00	\$0	\$0	
Financial Assurance [2]				0.00	\$0	\$0	\$0 \$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)		<u> </u>		0.00	\$0	\$0	\$0
Notes for AVOIDED costs							
							\$1
Approx. Cost of Compliance		\$200			TOTAL		<u> </u>

\$200

Approx. Cost of Compliance

Screening Date		PCW
· · · · · · · · · · · · · · · · · · ·		vision 3 (September 2011)
Case ID No Reg. Ent. Reference No		W Revision August 3, 2011
Media [Statute		
Enf. Coordinato		
Violation Numbe		
Rule Cite(s	TPDES General Permit No. TXR150000, Part III, Section D.1., Plan Review and Making Plans Available, and 30 Tex. Admin. Code § 281.25(a)(4)	
Violation Descriptio	Failed to make the storm water pollution prevention plan ("SWP3") readily availab at the time of an on-site inspection.	e
	Base Penal	\$25,000
	rty and Human Health Matrix Harm Major Major Major	
Releas OR Actua		
Potentia		
>>Programmatic Matrix Falsification	Major Moderate Minor	
	X Percent 5.0%	
Matrix	100% of the rule requirement was not met.	
Notes		
	¢22.71	701
	Adjustment \$23,75	101
		\$1,250
Violation Events		
Number of	Violation Events 1 Number of violation days	
	daily weekly	
mark only one	monthly quarterly Violation Base Penals	\$1,250
with an x	semiannual	
	annual	
	single event x	
		7
	One single event is recommended.	
		_
Good Faith Efforts to Con	25.0% Reduction	\$312
	Before NOV NOV to EDPRP/Settlement Offer	
	Extraordinary	
	Ordinary x N/A (mark with x)	
	Notes The Respondent achieved compliance by February 11, 2013 for this violation.	
	Violation Subtota	\$938
Economic Benefit (EB) fo	this violation Statutory Limit Test	
Estima	ted EB Amount \$0 Violation Final Penalty Total	\$1,024
	This violation Final Assessed Penalty (adjusted for limits	\$1,024

Pecnandan		conomic scape Materials, L		i i karana mada			
Case ID No		scape materials, L	. L. C.,				
	-						
leg. Ent. Reference No							
	Water Quality					Percent Interest	Years of
Violation No	. 2						Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Vrs	Interest Saved	Onetime Costs	EB Amount
		The state of the s	***************************************		21,00,001,001,00		
Item Description	n No commas or \$						
Delayed Costs	5	7		1 0 00	T 40	r +0 T	<u>+0</u>
Equipment		4		0.00	\$0	\$0 \$0	\$0 \$0
Buildings				0.00	\$0 \$0	\$0	\$0 \$0
Other (as needed)		 		0.00	\$0	\$0 \$0	\$0 \$0
Engineering/construction					\$0	n/a	\$0 \$0
Land				0.00	\$0	n/a	\$0 \$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0 \$0
Remediation/Disposal	11	11	Department of the second of th	1 0.00		11/0	20
				00.00	40	0/0	¢በ
Permit Costs	¢300	2013cc 2012	11 Feb 2012	0.00	\$0 ¢0	n/a	\$0 \$0
Permit Costs Other (as needed)	\$200	24-Jan-2013		0.05	\$0	n/a	\$0
Other (as needed) Notes for DELAYED costs	Estimated cos	st to maintain the	SWP3 readily a and the final o	0.05 vailabli late is i	\$0 e at the Site. Date the compliance dat	n/a required is the inve	\$0 stigation date,
Other (as needed) Notes for DELAYED costs Avoided Costs	Estimated cos	st to maintain the	SWP3 readily a and the final o	0.05 vailable late is l	\$0 e at the Site. Date the compliance dat ng item (except	n/a required is the inve	\$0 stigation date, led costs)
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal	Estimated cos	st to maintain the	SWP3 readily a and the final o	0.05 vailable late is i	\$0 e at the Site. Date the compliance dat ng item (except \$0	n/a required is the inve	\$0 stigation date, led costs) \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	Estimated cos	st to maintain the	SWP3 readily a and the final o	vailable late is 1	\$0 e at the Site. Date the compliance dat ng item (except \$0 \$0	n/a required is the inve	\$0 stigation date, led costs) \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel aspection/Reporting/Sampling	Estimated cos	st to maintain the	SWP3 readily a and the final o	0.05 vailable late is 1 0.00 0.00 0.00	\$0 e at the Site. Date the compliance dat ng item (except \$0 \$0 \$0 \$0	n/a required is the inverse. for one-time avoid \$0 \$0 \$0 \$0 \$0	\$0 stigation date, led costs) \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel aspection/Reporting/Sampling Supplies/equipment	Estimated cos	st to maintain the	SWP3 readily a and the final o	0.05 vailable late is 1 0.00 0.00 0.00 0.00	\$0 e at the Site. Date the compliance dat ng item (except \$0 \$0 \$0 \$0 \$0	n/a required is the inverse. for one-time avoid \$0 \$0 \$0 \$0 \$0	\$0 stigation date, led costs) \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel respection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated cos	st to maintain the	SWP3 readily a and the final o	vailable date is 1 0.00 0.00 0.00 0.00 0.00 0.00	\$0 e at the Site. Date the compliance dat ng item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a required is the inverse. for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 stigation date, led costs) \$0 \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	Estimated cos	st to maintain the	SWP3 readily a and the final o	0.05 vailable late is 1 0.00 0.00 0.00 0.00	\$0 e at the Site. Date the compliance dat ng item (except \$0 \$0 \$0 \$0 \$0	n/a required is the inverse. for one-time avoid \$0 \$0 \$0 \$0 \$0	\$0 stigation date, led costs) \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel respection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated cos	st to maintain the	SWP3 readily a and the final o	vailable date is 1 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0	\$0 e at the Site. Date the compliance date \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a required is the inverse. for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 stigation date, led costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel aspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	Estimated cos	st to maintain the	SWP3 readily a and the final o	vailable date is 1 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0	\$0 e at the Site. Date the compliance date \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a required is the inverse. for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 stigation date, led costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel aspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	Estimated cos	st to maintain the	SWP3 readily a and the final o	vailable date is 1 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0	\$0 e at the Site. Date the compliance date \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a required is the inverse. for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 stigation date, led costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel aspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	Estimated cos	st to maintain the	SWP3 readily a and the final o	vailable date is 1 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0	\$0 e at the Site. Date the compliance date \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a required is the inverse. for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 stigation date, led costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0

Resp			ape Materials, LLC	Docket No	• 2013-0511-WQ-E	•	PCW n 3 (September 2011) vision August 3, 2011
Reg. Ent. Refere Media [S Enf. Coor Violation	nce No. Statute] dinator		Ē.			70776	vision August 3, 2011
Ru	le Cite(s)		il Permit No. TXR1500 tents of SWP3, and 3		ection F.1.(c), (e), (f), Code § 281.25(a)(4)	, and (g),	
Violation De	escription	will disturb soils	for major portions of e from the Site, a ma	the Site, data	ule or sequence of act describing the soil or general location of the SWP3.	the quality	
					Bas	se Penalty	\$25,000
>> Environmental	Release	Major	in Health Matrix Harm Moderate Mino				
OR	Actual Potential				Percent 0.0%	g i i conoch	
>>Programmatic I	Matrix Isification	Major	Moderate Mino	r	Percent 2.5%		many amenica
Matrix Notes		30 to	70% of the rule requ	irement was no	ot met.		***************************************
				A	djustment	\$24,375	
Violation Events						L	\$625
N	umber of V	iolation Events	1	1	Number of violation	days	
	ik only one rith an x	daily weekly monthly quarterly semiannual annual single event	X		Violation Bas	e Penalty	\$625
			One single event is	recommended.			
Good Faith Efforts		Extraordinary Ordinary N/A	X (mark with	PRRP/Settlement OI			\$0
		Notes	The Respondent does	not meet the g this violation.	good faith criteria for		
nga pagan sama ayang <u>m</u> ana p <u>ag</u> an sa sa sa <u>m</u> an sa sa	<u>,</u>	ggga "2019 2°, gggsjó 224 521 <u>4</u> 853				Subtotal _	\$625
Economic Benefit (this violation d EB Amount[\$26	Statutory Limit Violation Final Pen	*****	\$672
			This violation F	inal Assessed	Penalty (adjusted f	or limits)	\$672

Economic Benefit Worksheet Respondent Rainbow Landscape Materials, LLC **Case ID No. 46436** Reg. Ent. Reference No. RN105695563 Media Water Quality Percent Interest Depreciation Violation No. 3 5.0 15 Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs **EB** Amount Item Description No commas or \$ **Delayed Costs** 0.00 \$0 \$0 \$0 Equipment \$0 Buildings 0.00 \$0 \$0 0.00 \$0 \$0 \$0 Other (as needed) \$0 Engineering/construction 0.00 <u>\$0</u> n/a \$0 0.00 \$0 Land Record Keeping System 0.00 \$0 n/a \$0 Training/Sampling 0.00 \$0 n/a \$0 Remediation/Disposal 0.00 \$0 n/a \$0 n/a \$0 **Permit Costs** 24-Jan-2013 1-Aug-2013 0.52 Other (as needed) Estimated cost to include in the SWP3 a description of the intended schedule or sequence of activities that will disturb soils for major portions of the Site, data describing the soil or the quality of any discharge from Notes for DELAYED costs the Site, a map showing the general location of the Site, and a detailed site map. Date required is the investigation date and the final date is the anticipated compliance date. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **Avoided Costs** Disposal 0.00 Personnel 0.00 \$0 \$0 \$0 Inspection/Reporting/Sampling 0.00 \$0 \$0 \$0 0.00 \$0 \$0 \$0 Supplies/equipment \$0 Financial Assurance [2] 0.00 \$0 \$0 \$0 0.00 \$0 \$0 ONE-TIME avoided costs [3] Other (as needed) 0.00 Notes for AVOIDED costs

TOTAL

\$26

\$1,000

Approx. Cost of Compliance

		ening Date				No. 2013-0511-WQ-E		PCW
		Respondent Case ID No.		cape Materials, LLC				on 3 (September 2011) Levision August 3, 2011
Reg. E	nt. Re	ference No.	RN105695563					
		a [Statute] Coordinator	Water Quality Jorge Ibarra, P.	E.				
		ation Number	4				1	
		Rule Cite(s)	TPDES Ger			III, Section F.2.(a)(ii), G Code § 281.25(a)(4)	eneral	
	Violatio	n Description		of the property had		pecifically, the silt fence long and large patches of veget the slope.		
						Bas	e Penalty[\$25,000
>> Envir	onme	ntal, Proper	ty and Hum	an Health Matr	ix .			
		Release	Major	Harm	nor			
OR		Actual						
		Potential	<u> </u>	× L		Percent 5.0%		
>>Progr	amma	tic Matrix Falsification	Major	Moderate Mi	nor			
		raisincation		Hoderate Pa		Percent 0.0%		
	Matrix Notes			that are protective		significant amounts of po th or environmental rece		A LEAST OF PROPERTY.
						Adjustment	\$23,750	
							L	\$1,250
Violation	Event	S					Section 1	
		Number of V	/iolation Events	1	48	Number of violation	days	
			daily	1				
			weekly					N
		mark only one	monthly quarterly	×		Violation Bas	e Penalty	\$1,250
		with an x	semiannual					
			annual single event					
	1							To the second se
		One quarte	rly event is reco	mmended from the screening date of		date of January 24, 2013 3.	to the	
Good Fai	th Effo	rts to Comp	oly [0.0% Reduc	ition			\$0
			Extraordinary [Before NOV NOV to	EDPRP/Settlemen	t Offer		
			Ordinary					
			N/A[X (mark				1
			Notes	The Respondent do	es not meet th this violation	e good faith criteria for n.		
			_		,	Violation	Subtotal	\$1,250
Economic	: Bene	fit (EB) for	this violatio	n		Statutory Limit	Test	
		Estimate	ed EB Amount		\$30	Violation Final Pena	alty Total	\$1,343
				This violation	Final Assesse	ed Penalty (adjusted f	or limits)	\$1,343

Economic Benefit Worksheet Respondent Rainbow Landscape Materials, LLC **Case ID No. 46436** Reg. Ent. Reference No. RN105695563 Percent Interest Depreciation Years of Media Water Quality Violation No. 4 5.0 Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount Item Description No commas or \$ **Delayed Costs** 0.00 \$0 \$0 \$0 Equipment 0.00 \$0 Buildings \$0 \$0 0.00 \$0 \$0 \$0 Other (as needed) 0.00 \$0 Engineering/construction \$0 \$0 0.00 n/a Land \$0 Record Keeping System 0.00 \$0 n/a \$0 Training/Sampling 0.00 \$0 n/a \$0 Remediation/Disposal 0.00 \$0 n/a \$0 **Permit Costs** 0.00 \$0 n/a \$0 Other (as needed) \$30 Estimated cost to repair the silt fence and establish vegetation on the slope. Date required is the Notes for DELAYED costs investigation date and the final date is the anticipated compliance date. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **Avoided Costs** 0.00 Disposal 0.00 \$0 \$0 \$0 Personnel 0.00 \$0 Inspection/Reporting/Sampling \$0 \$0 0.00 \$0 \$0 \$0 Supplies/equipment Financial Assurance [2] 0.00 \$0 \$0 \$0 ONE-TIME avoided costs [3] 0.00 \$0 \$0 \$0 Other (as needed) 0.00 \$0 Notes for AVOIDED costs

\$1,000

Approx. Cost of Compliance

TOTAL

\$30

The state of the s	ondent Rainhow I		/Q-E PCW
		Landscape Materials, LLC	Policy Revision 3 (September 2011)
key. Ent. Kererer	ID No. 46436	5563	PCW Revision August 3, 2011
Madia fC			
	tatute] Water Qu dinator Jorge Iba		
Violation		110, F.C.	
	e Cite(s)		
	TPDES	S General Permit No. TXR150000, Part III, Section F.7.(a), Controls, and 30 Tex. Admin. Code § 281.25(a)(4)	
Violation Des	stabiliz dischar pollutant inspecti waste, ha	inspect disturbed areas of the construction Site that have sed, areas used for storage of materials that are exposed to rge locations, and structural controls for evidence of, or the sentering the drainage system. Specifically, a review of the ion reports revealed that the site inspections were not contazardous waste, sanitary/septic, offsite storage erosion corts storage, and curb inlet protection for the period of June January 24, 2013.	o precipitation, e potential for, ne bi-weekly Site ducted for solid ntrols, hazardous
			Base Penalty \$25,000
>> Environmental,	Property and I	Human Health Matrix	
		Harm	
OR	Release Major	r Moderate Minor	
UK	Potential	X Percent	5.0%
	L. Company		and the second s
>>Programmatic M	an chian a mathamai i i can an a		
Fals	sification Major		0.0%
<u> </u>		Percent	0,0%]
			1
Matrix II		environment will or could be exposed to significant amount	. "
Notes which	h would not exceed	levels that are protective of human health or environment, result of the violation.	al receptors as a
		result of the violation,	<u> </u>
		14 H 10 H	+22.750
	and the state of t	Adjustment	\$23,750
			\$1,250
			sasana perekapakan parau tahan 20
Violation Events			
NI.	umbar of Violation Ev	vents 3 237 Number of vio	lation days
Nu	umber of Violation Ev	vents 3 Number of vio	nation days
	daily		
	weekl		
	month		***************************************
	k only one ith an x quarter	· · ·	n Base Penalty \$3,750
	semiann	40.000000	
	semiann annua		
	semiann		
	semiann annua single ev	vent	2013 V 24 2013
	semiann annua single ev	vent are recommended for the period of June 1, 2012 through Ja	anuary 24, 2013
wii	semiann annua single ev	vent	anuary 24, 2013
Three	semiann annua single ev re quarterly events a	are recommended for the period of June 1, 2012 through Jawhen the Site inspections were not conducted.	
wii	semiann annua single ev re quarterly events a	vent are recommended for the period of June 1, 2012 through Ja	anuary 24, 2013 \$0
Three	semiann annua single ev re quarterly events a	went recommended for the period of June 1, 2012 through Jawhen the Site inspections were not conducted. 0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer	
Three	semiann annua single ever e quarterly events a to Comply Extraordin	went recommended for the period of June 1, 2012 through Jawhen the Site inspections were not conducted. 0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer	
Three	semiann annua single ever e quarterly events a to Comply	went are recommended for the period of June 1, 2012 through Jawhen the Site inspections were not conducted. 0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer nary	
Three	semiann annua single ever e quarterly events a to Comply Extraordir Ordi	went are recommended for the period of June 1, 2012 through Jawhen the Site inspections were not conducted. O.0% Reduction Before NOV NOV to EDPRP/Settlement Offer nary Inary (mark with x) The Respondent does not meet the good faith criterians and the second set of the second second set of the second se	\$0
Three	semiann annua single ever e quarterly events a to Comply Extraordir Ordi	went recommended for the period of June 1, 2012 through Jawhen the Site inspections were not conducted. 0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer nary Inary Inary	\$0
Three	semiann annua single ever e quarterly events a to Comply Extraordir Ordi	re recommended for the period of June 1, 2012 through Jawhen the Site inspections were not conducted. O.0% Reduction Before NOV NOV to EDPRP/Settlement Offer nary Inary Inary N/A x (mark with x) The Respondent does not meet the good faith criteria	\$0
Three	semiann annua single ever e quarterly events a to Comply Extraordir Ordi	re recommended for the period of June 1, 2012 through Jawhen the Site inspections were not conducted. O.0% Reduction Before NOV NOV to EDPRP/Settlement Offer hary Inary N/A x (mark with x) Notes The Respondent does not meet the good faith criteric this violation.	\$0
Three	semiann annua single ever e quarterly events a to Comply Extraordir Ordi	went Preserved and served of June 1, 2012 through Jawhen the Site inspections were not conducted. 0.0% Reduction	a for subtotal \$3,750
Three	semiann annua single ever e quarterly events a to Comply Extraordir Ordi	o.0% Reduction Before NOV NOV to EDPRP/Settlement Offer inary N/A x ((mark with x)) Notes The Respondent does not meet the good faith criteristhis violation. Vio	a for subtotal \$3,750
Three	semiann annua single ever to Comply Extraordin Ordin	went are recommended for the period of June 1, 2012 through Jawhen the Site inspections were not conducted. O.0% Reduction Before NOV NOV to EDPRP/Settlement Offer Inary I	a for lation Subtotal \$3,750 Limit Test
Three	semiann annua single ever e quarterly events a to Comply Extraordir Ordi	went are recommended for the period of June 1, 2012 through Jawhen the Site inspections were not conducted. O.0% Reduction Before NOV NOV to EDPRP/Settlement Offer Inary I	a for subtotal \$3,750
Three	semiann annua single ever to Comply Extraordin Ordin	went are recommended for the period of June 1, 2012 through Jawhen the Site inspections were not conducted. O.0% Reduction Before NOV NOV to EDPRP/Settlement Offer Inary I	so s

Economic Benefit Worksheet Respondent Rainbow Landscape Materials, LLC Case ID No. 46436 Reg. Ent. Reference No. RN105695563 Years of Media Water Quality Percent Interest Depreciation Violation No. 5 5.0 15 Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount Item Description No commas or \$ **Delayed Costs** 0.00 \$0 \$0 Equipment \$0 0.00 \$0 \$0 Buildinas \$0 0.00 \$0 \$0 \$0 Other (as needed) \$0 Engineering/construction 0.00 \$0 \$0 0.00 n/a Land \$0 Record Keeping System \$0 0.00 \$0 n/a Training/Sampling 0.00 \$0 n/a \$0 Remediation/Disposal 0.00 \$0 n/a \$0 \$0 **Permit Costs** 0.00 \$0 n/a 24-Jan-2013 15-Aug-2013 0.56 \$14 n/a Other (as needed) Estimated cost to begin properly conducting the required inspections of control measures at the Site. Date Notes for DELAYED costs required is the investigation date, and the final date is the anticipated compliance date. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **Avoided Costs** \$0 0.00 \$0 Disposal \$0 \$0 Personnel 0.00 \$0 Inspection/Reporting/Sampling 0.00 \$0 \$0 \$0 \$0 Supplies/equipment 0.00 \$0 \$0 Financial Assurance [2] 0.00 \$0 \$0 \$0 \$216 ONE-TIME avoided costs [3] \$16 \$200 \$0 Other (as needed)

Approx. Cost of Compliance

Notes for AVOIDED costs

\$700

TOTAL

Estimated avoided cost (\$10 per inspection) to conduct the bi-weekly inspection of the Site. Date required

is the date the violation was first documented and the final date is the investigation date.

\$230

	Screening Date	13-Mar-2013		Docket No. 2013-0511-WQ-E	PCW
	•		ape Materials, LLC		Policy Revision 3 (September 2011)
D	Case ID No.				PCW Revision August 3, 2011
_	Reference No. [Statute] ledia				
	of. Coordinator		=		
. 	Violation Number				
	Rule Cite(s)		Tex. Wate	er Code § 26.121(a)	
Vio	lation Description	Specifically,	the disturbed area ha trols were not utilized	ediment into or adjacent to water in d not been properly stabilized and s I resulting in sediment leaving the S g nearby property.	ufficient
				Ва	se Penalty \$25,000
>> Environ	mental, Proper	ty and Huma	ın Health Matrix		
	Release	Major	Harm Moderate Minor	r	
OR	Actual		X		
	Potential			Percent 5.0%	
>>Program	ımatic Matrix				
	Falsification	Major 	Moderate Minor	Percent 0.0%	
		1	- 1		-
Mai	not exceed lev	or the environm rels that are prot	ent has been exposed ective of human healt	to insignificant amounts of pollutanth or environmental receptors as a r	ts which do esult of the
No	tes	-	violation		
		t ingin Jawa Jawa (Control (Aliantesia)		Adjustment	\$23,750
			NOTE OF THE PROPERTY OF THE PR	and the second s	\$1,250
					31,230
Violation E	/ents				
	Number of \	/iolation Events	1	Number of violation	n days
,		daily			·
		weekly			
	mark only one	monthly quarterly	x	Violation Ba	se Penalty \$1,250
	with an x	semiannual			
		annual			
		single event			
	One quarto	erly event is reco	mmended from the in screening date of Ma	vestigation date of January 24, 201 arch 13, 2013.	3 to the
Good Esith	Efforts to Com	nlv 「	0.0% Reductio	in	\$0
GOOG I BILLI	Endits to com			PRP/Settlement Offer	**************************************
		Extraordinary			
		Ordinary	(man)		
		N/AIL II	X (mark with		
		Notes		not meet the good faith criteria for this violation.	
		<u>L</u>		Violatio	n Subtotal \$1,250
	6t /FD\ 6	al.:::		Statutory Limi	
Economic B	enefit (EB) for	this violatio	•	Statutory Limi	
	ESUMBU	cu Lo Amount		incompany of	-
			This violation Fi	inal Assessed Penalty (adjusted	for limits) \$1,343

	E	conomic	Benefit	Wo	rksheet		
Respondent Case ID No.		scape Materials, L	LC				
Reg. Ent. Reference No.	RN105695563						regardage was such a see that are
Media Violation No.	Water Quality					Percent Interest	Years of Depreciation
Violation No.						5.0	15
						Survey of the second se	
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs						under merk de jarej and de e La companya de la co	
Equipment				0.00	\$0	\$0	<u>\$0</u>
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction			\	0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	24-Jan-2013	15-Sep-2013	0.64	\$48	l n/a	\$48
Notes for DELAYED costs	Site by st	abilizing the distu investigation o	urbed area and date and the fin	utilizing al date	g erosion control n is the anticipated		ired is the
Avoided Costs	ANNUAL)	ZE [1] avoided	costs before			for one-time avoic	
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)		<u> </u>		0.00	\$0	\$0 l	\$0
Notes for AVOIDED costs	• .						
Approx. Cost of Compliance		\$1,500			TOTAL		\$48

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEO Help Desk at (512) 239-4357.



Compliance History Report

Materials, LLC

MATERIALS

PUBLISHED Compliance History Report for CN603453036, RN105695563, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:

CN603453036, Rainbow Landscape

Classification: SATISFACTORY

Rating: 8.00

Regulated Entity:

RN105695563, RAINBOW LANDSCAPE

Classification: SATISFACTORY

Rating: 8.00

Complexity Points:

Repeat Violator:

CH Group:

14 - Other

Location:

3916 E HIGHWAY 67, RAINBOW TX 76077 SOMERVELL, TX, SOMERVELL COUNTY

TCEQ Region:

REGION 04 - DFW METROPLEX

ID Number(s):

Compliance History Period:

September 01, 2007 to August 31, 2012

Rating Year: 2012

Rating Date: 09/01/2012

Date Compliance History Report Prepared:

March 11, 2013

Agency Decision Requiring Compliance History:

Enforcement

Component Period Selected:

March 11, 2008 to March 11, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jorge Ibarra, P.E.

Phone

(817) 588-5890

Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period?

YES NO

2) Has there been a (known) change in ownership/operator of the site during the compliance period?

3) If YES for #2, who is the current owner/operator? 4) If YES for #2, who was/were the prior

N/A N/A

owner(s)/operator(s)?

5) If YES, when did the change(s) in owner or operator

N/A

occur?

Components (Multimedia) for the Site Are Listed in Sections A - J

Final Orders, court judgments, and consent decrees:

Criminal convictions:

N/A

Chronic excessive emissions events:

The approval dates of investigations (CCEDS Inv. Track. No.):

Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 04/23/2012

(997766)

Citation:

Self Report?

30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Description:

Failure to obtain permit coverage for the site. At the time of the investigation, it was noted that the operator did not have permit coverage for the site and no SWPPP was

available.

Self Report?

NO

Classification:

Moderate

Citation:

TWC Chapter 26 26.121

Description:

Failure to prevent unauthorized discharges into or adjacent to any water in the state resulted in non-compliance with Texas Water Code Chapter 26.121. On April 12, 2012, evidence was found that sediment was discharged from the property. Sediment was documented leaving the site and depositing onto a nearby property and along the north beach of the Brazos River.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
RAINBOW LANDSCAPE	§	TEXAS COMMISSION ON
MATERIALS, LLC	§	
RN105695563	, §	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2013-0511-WQ-E

I. JURISDICTION AND STIPULATIONS

On _________, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Rainbow Landscape Materials, LLC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

- 1. The Respondent owns and operates a construction site at 3916 East Highway 67 in Rainbow, Somervell County, Texas (the "Site").
- 2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under Tex. Water Code ch. 26.
- 3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 17, 2013.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Nine Thousand Four Hundred Thirty-Five Dollars (\$9,435) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Two Hundred Fifty-

Eight Dollars (\$1,258) of the administrative penalty and One Thousand Eight Hundred Eighty-Seven Dollars (\$1,887) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Six Thousand Two Hundred Ninety Dollars (\$6,290) of the administrative penalty shall be payable in five monthly payments of One Thousand Two Hundred Fifty-Eight Dollars (\$1,258) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 Tex. ADMIN. CODE § 70.10(a).
- 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. By February 11, 2013, began making the storm water pollution prevention plan ("SWP3") readily available at the Site;
 - b. By February 22, 2013:
 - i. Posted a construction site notice at the Site in a location where it is safely and readily available for viewing; and
 - ii. Included a detailed site map in the SWP3.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

- 1. Failed to post the construction site notice at the Site in a location where it is safely and readily available for viewing by the general public, local, state, and federal authorities, prior to commencing construction, and to maintain the notice at that location until completion of the construction activity, in violation of Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150000, Part II, Section E.2.(b), Obtaining Authorization to Discharge, and 30 Tex. ADMIN. CODE § 281.25(a)(4), as documented during an investigation conducted on January 24, 2013.
- 2. Failed to make the SWP3 readily available at the time of an on-site inspection, in violation of TPDES General Permit No. TXR150000, Part III, Section D.1., Plan Review and Making Plans Available, and 30 Tex. ADMIN. CODE § 281.25(a)(4), as documented during an investigation conducted on January 24, 2013.
- 3. Failed to include a description of the intended schedule or sequence of activities that will disturb soils for major portions of the Site in the SWP3, in violation of TPDES General Permit No. TXR150000, Part III, Section F.1.(c), Contents of SWP3, and 30 TEX. ADMIN. CODE § 281.25(a)(4), as documented during an investigation conducted on January 24, 2013.
- 4. Failed to include data describing the soil or the quality of any discharge from the Site in the SWP3, in violation of TPDES General Permit No. TXR150000, Part III, Section F.1.(e), Contents of SWP3, and 30 Tex. Admin. Code § 281.25(a)(4), as documented during an investigation conducted on January 24, 2013.
- 5. Failed to include a map showing the general location of the Site in the SWP3, in violation of TPDES General Permit No. TXR150000, Part III, Section F.1.(f), Contents of SWP3, and 30 TEX. ADMIN. CODE § 281.25(a)(4), as documented during an investigation conducted on January 24, 2013.
- 6. Failed to include a detailed site map in the SWP3, in violation of TPDES General Permit No. TXR150000, Part III, Section F.1.(g), Contents of SWP3, and 30 TEX. ADMIN. CODE § 281.25(a)(4), as documented during an investigation conducted on January 24, 2013.
- 7. Failed to properly maintain control measures, in violation of TPDES General Permit No. TXR150000, Part III, Section F.2.(a)(ii), General Requirements, and 30 TEX. ADMIN. CODE § 281.25(a)(4), as documented during an investigation conducted on January 24, 2013. Specifically, the silt fence located on the south side of the property had fallen down and large patches of vegetation had not been established on the slope.
- 8. Failed to inspect disturbed areas of the construction Site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, discharge locations, and structural controls for evidence of, or the potential for, pollutants entering the drainage system, in violation of TPDES General Permit No. TXR150000, Part III, Section F.7.(a), Inspection of Controls, and 30 Tex. Admin. Code § 281.25(a)(4), as documented during an investigation conducted on January 24, 2013. Specifically, a review of the bi-weekly site inspection reports revealed that the site inspections were not conducted for solid waste, hazardous waste, sanitary/septic, offsite storage erosion

Rainbow Landscape Materials, LLC DOCKET NO. 2013-0511-WQ-E Page 4

controls, hazardous materials storage, and curb inlet protection for the period of June 1, 2011 through January 24, 2013.

9. Failed to prevent the discharge of sediment into or adjacent to water in the state, in violation of Tex. Water Code § 26.121(a), as documented during an investigation conducted on January 24, 2013. Specifically, the disturbed area had not been properly stabilized and sufficient erosion controls were not utilized, resulting in sediment leaving the Site and impacting nearby property.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Rainbow Landscape Materials, LLC, Docket No. 2013-0511-WQ-E" to:

Financial Administration Division, Revenue Operations Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of this Agreed Order:
 - i. Include a description of the intended schedule or sequence of activities that will disturb soils for major portions of the Site in the SWP3, in accordance with TPDES General Permit No. TXR150000, Part III, Section F.1.(c);
 - ii. Include data describing the soil or the quality of any discharge from the Site in the SWP3, in accordance with TPDES General Permit No. TXRX150000, Part III, Section F.1.(e); and
 - iii. Include a map showing the general location of the Site in the SWP3, in accordance with TPDES General Permit No. TXR150000, Part III, Section F.1.(f).

- b. Within 30 days after the effective date of this Agreed Order, begin inspecting disturbed areas of the Site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, discharge locations, and structural controls for evidence of, or the potential for, pollutants entering the drainage system, in accordance with TPDES General Permit No. TXR150000, Part III, Section F.7.(a);
- c. Within 45 days after the effective date of this Agreed Order, repair the silt fence and establish vegetation on the slope;
- d. Within 60 days after the effective date of this Agreed Order, develop and implement procedures to eliminate the reoccurrence of discharges from the Site by stabilizing the disturbed area and utilizing erosion control measures; and
- e. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Water Section Manager Dallas/Fort Worth Regional Office Texas Commission on Environmental Quality 2309 Gravel Drive Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.

Rainbow Landscape Materials, LLC DOCKET NO. 2013-0511-WQ-E Page 6

- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- This Agreed Order may be executed in separate and multiple counterparts, which 7. together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
- 8. Under 30 Tex. Admin. Code § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	and the second s	
Pomopona 1	11/1/13	
For the Executive Director	Date	-

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
 and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

Name (Printed or typed)

Authorized Representative of

Rainbow Landscape Materials, LLC

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.